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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,179	09/03/2003	Ahmad M. Beiruti	BEIRU-001A	5020

7590 11/14/2006

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3772

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/654,179	Applicant(s) BEIRUTI, AHMAD M.	
	Examiner Michael Brown	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-25 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12, 15, 16, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 13, 14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10-30-06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurgens in view of Martin '770 and each in view of the other.

Jurgens discloses in figures 1-8 a massaging reflexology system (col. 2, lines 26-29), comprising a core body (fig. 1), defining a top surface 20, a bottom surface (fig. 1), a plurality of cups 22, defining a substantially concave surface (fig. 2) extending inwardly from the top surface, a plurality of pressure nubs 28, disposed on the concave surface of each cup (fig. 8), the core body is generally in the shape of a shoe insole (fig. 1), with the top surface being contoured (col. 3, lines 35-36), the core body is in the shape of a heel portion (the heel portion in fig. 1), the core body includes an intermediate portion (fig. 1), the thickness of the core body varies along a length (fig. 1), the core body is generally configured in the shape of a shoe insole having a heel portion, an intermediate portion, a toe portion and an arch portion (all portions are shown in fig. 1), the thickness of the heel portion being greater at the heel and arch portions versus the intermediate and toe portions (fig. 1), the core body is fabricated from a resilient, elastomeric material (rubber), the pressure nub is generally hemispherical shape (30 in fig. 6), the core body and the cups are formed as a unitary

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structure (fig. 8) and the core body is configured to circumscribe a handle grip of an implement (the core body is configured to be gripped by an implement). However, Jurgens doesn't disclose the cup extending outwardly from the top surface or the pressure nub outwardly projected from the concave surface. Martin teaches in figures 3-4 a core 28, a plurality of cups 30 extending outwardly from a top surface of the core (fig. 3) and a pressure nub 32 centrally disposed on and outwardly projected from the cup. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the cups disclosed by Jurgens could be fabricated to extend outwardly from the top surface as taught by Martin. Thus, allowing the pressure nub to provide a greater massaging area to the sole of the foot. It would have also been obvious to one having ordinary skill in the art at the time that the invention was made that the frusto-conical shaped cups as taught by Martin could be formed in a concave shape as disclosed by Jurgens. The shape of the cup could be changed because there is no criticality in having a concave shaped cup versus a frusto-conical shaped cup. Either way there is a pressure nib centrally located inside of a cup shaped member.

Claims 7 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Louie '600.

Louie teaches in figure 6 a core body having cups 24 on a bottom surface and at least one depression 28 on the bottom surface. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the core body disclosed by Jurgens and taught by Martin could be fabricated with cups on the bottom surface as taught by Louie in order to use the cups on the bottom surface to provide

traction while wearing the device. The depression could be used provide additional traction while wearing the device. The cup and the pressure nub would be aligned with the depression because they are all located on the core.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Bouchoms.

Bouchoms teaches in figure 1 a core body comprising a grid 7, of orthogonally – arranged support webs 15, extending perpendicularly from and disposed along the bottom surface. It would have been obvious to one ordinary skill in the art at the time that the invention was made that the grid as taught by Bouchoms could be incorporated into the device disclosed by Jurgens and taught by Martin in order to provide traction to the bottom surface of the core body.

Allowable Subject Matter

Claims 8-9, 13-14 and 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-25 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-7, 10-12, 15-16 and 26-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

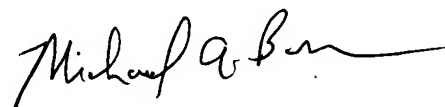
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Brown
November 13, 2006



MICHAEL A. BROWN
PRIMARY EXAMINER